



- 1 -

#28

ATTORNEY DOCKET NO. CIBT-P06-504

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rueger et al.

Examiner: S. Turner, Ph.D.

Serial No.: 08/937,756

Art Unit: 1647

Filing Date: September 25, 1997

For: MORPHOGEN-INDUCED NERVE REGENERATION AND REPAIR

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to the Commissioner for Patents, Washington, D.C. 20231 on November 7, 2001.

Patricia McKenney

Attention: Office of Petitions
Assistant Commissioner for Patents
BOX DAC
WASHINGTON, D.C. 20231

RECEIVED

JAN 14 2002

OFFICE OF PETITIONS

Dear Sir:

**REQUEST FOR CONSIDERATION OF DECISION
ON PETITION FOR REVIVAL UNDER 37 CFR 1.137(e)**

This is a request for reconsideration of the decision dismissing the Petition under 37 CFR 1.137(b), mailed August 7, 2001 in the above-identified application. The Commissioner decided that the Petition was not grantable since it was not accompanied by a notice of appeal, and

Adjustment date: 02/06/2002 AKELLEY
1/11/2002 SDUNION 0000035-181945 08937756
2 FC:117 920.00 CR

BEST AVAILABLE COPY

therefore did not comply with the requirements of 37 CFR 1.137(b)(1) since it was not accompanied by the required reply to the final Office Action. Reconsideration of the decision is respectfully requested in light of the following remarks.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office Action of September 25, 2001. A Petition to revive the application was filed on June 29, 2001, in response to the receipt of a Notice of Abandonment on June 19, 2001. The Petition included a proposed Amendment and Response which failed to place the application in condition for allowance. The Petition did not include a notice of appeal. Since applicant had also filed a three-month extension of time for response to the final Office Action, the date of abandonment is March 26, 2001.

Applicants respectfully request that the decision on the Petition be reconsidered, and that the Petition be granted. The undersigned attorney first became aware of the decision on the Petition on November 5, 2001, as a result of a telephone call from prior counsel in this application. This request was filed promptly upon reviewing the decision on the Petition, a copy of which is enclosed with this Request. Accompanying this Request is a copy of the Notice of Appeal which was omitted in the prior Petition. Upon information and belief, applicants state that the entire delay in filing the Petition and this Request, from the due date of the reply until the filing of this Request, was unintentional.

Accompanying this Request is a petition under 37 CFR 1.136 for a one month extension of time for an abandoned application, extending the response time from October 7, 2001 to November 7, 2001. Also accompanying this Request is a Notice of Appeal from the final Office Action, which is the required response.

Please charge any additional fees which may be due as a result of this Request to Deposit Account No. 18-1945.

Reconsideration of the decision on the Petition, and revival of the above-identified application, is respectfully requested.

BEST AVAILABLE COPY

Respectfully submitted,

by William G. Gosz

William G. Gosz

Reg. No. 27,787

Ropes & Gray

One International Place

Boston, MA

Attorneys for Applicant(s)

Tel. No. (617) 951-7000

DATE: 11/7/01

BEST AVAILABLE COPY